Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Media Bureau Seeks Comment on the	)	MB Docket No. 11-83
Economic Impact of Low-Power FM Stations	)	
on Full-Service[1] Commercial FM Stations	)	

REPLY COMMENTS OF WESLI DYMOKE

Wesli Dymoke hereby Replies to Comments in the above Docket, concerning the economic study required of the Federal Communications Commission by Section 8 of the Local Community Radio Act of 2010.[2]

Wesli Dymoke has been involved in community radio since 1987, joining the Amherst Alliance in 1998 and incorporating Providence Community Radio in 2000. This Reply Comment is individual and independent of those associations.

EXECUTIVE SUMMARY

Most (though not all) Commenters in the Docket captioned above provide useful ideas for how to prosecute the economic study mandated by Section 8 of the LCRA.

Limitations and complicating factors: Many consider the inherent complexity of any possible approach, due to numerous factors, some even suggesting that no approach is likely to return meaningful results. A few question the mandate's intent and scope. I share their doubt, though I fully support the Commission's sincere intent to fulfill the congressional mandate.

Metrics: The three main metrics proposed by the Commission in its Public Notice all offer some possible advantages, yet all also face serious challenges and limitations. Several Commenters describe these problems in detail, some offering compensatory or alternative strategies, many of which I agree with.

Content interference is a compelling but likely misleading and inconsequential issue, if only

1 "Because Congress refers to 'full-power' radio stations as 'full-service' stations in the LCRA, we also use that terminology in this Public Notice." - Footnote 3, *FCC Public Notice DA 11-756 in re FCC Docket MB 11-83* ("Public Notice").
2 *Local Community Radio Act of 2010*, Pub. L. 111-371 ("LCRA").

because of the much lesser power and reach of LPFM compared even to smaller full-service stations, yet also because the panoply of available substitutions likely makes it all but impossible to confidently attribute any measurable substitution to any one alternative.

Technical interference by LPFM stations need not add to an already complex study, as these questions are both firmly settled by prior studies and strongly mitigated by additional protections elsewhere in the LCRA. But technical interference *to* LPFM stations may well be relevant to this study, and should be considered.

Positive impact: Despite popular presumptions of both the congressional intent of the study and the potential impact of LPFM on full-service commercial stations, it may actually be the case that LPFM enhances full-service, and all radio, by its very existence. This question is worth consideration.

The forthcoming study, while required, is unlikely to reveal the problems that some incumbents seem to expect, or possibly any notable issues at all, regardless of the approach taken, and all proposed approaches will be complicated and challenging. Along the way, however, we may find some useful answers to related questions, ones we should be willing to ask.

PRELIMINARY CONSIDERATIONS

Following the Commission's lead in its Public Notice, I will use "full-service" when referring to full-power radio in this Docket.

All referenced Comments are those in FCC Docket MB 11-83.

I have communicated directly with some Commenters for purposes of clarification. Where I reference details not readily seen in their public Comments, I acknowledge this by footnote.

As the separate Comments of Frank Vela and Anthony Downes are materially the same as that of the much more detailed Comment by Jim Trapani ("Trapani"), I include them by reference to Trapani.[3]

As the Comment of Suzanne Goucher neither discusses nor implies any economic issues, I find it irrelevant to this Docket, and will neither cite nor reply to any part of it.[4]

LIMITATIONS: INTENT, SCOPE, AND COMPLEXITY

3 Comments of Frank Vela, Anthony Downes, and Jim Trapani (all separate), hereinafter collectively referenced as "Trapani". Mr. Trapani has been advised of this inclusion by reference, and agrees (per personal communication).

4 Ms. Goucher does discuss the relationship between certain LPFM and full-service stations, but the issues she raises are technical: no economic factors are mentioned, or seem implied. My own investigation further finds her specific complaint baseless on technical grounds. Related economic considerations would therefore also be without merit within her discussion, and likewise irrelevant in this Docket.

The National Association of Broadcasters (“NAB”) insists, "[T]he Commission must examine not only the impact that Low-Power FM radio (“LPFM”) stations have had to date, but also the impact they will have as greater numbers of LPFM stations are licensed."[5] NAB assumes that such (economic) impact is attributable, discrete (or at least separable), and measurable, to a degree of confidence that not only makes the impact describable but predictable. I feel this is unlikely.

I agree with Christian Community Broadcasters (“CCB”) that, “the vague brevity of Section 8 makes it almost impossible to know 'the intent of Congress,'” and “the mandate to conduct 'an economic study on the impact commercial stations will have on full-service commercial FM stations' is vague and unclear.”[6] And further with Prometheus Radio Project (“Prometheus”) that, “While Congress presumably is interested in the outcome of this study because it ordered the Commission to conduct it, the Commission is unlikely to have latitude to act on the results of this study. There is no argument advanced for evaluating this particular configuration of broadcast services in isolation”[7]

I believe it will prove extraordinarily difficult to determine the economic impact of LPFM as a specific factor, due to several factors Commenters consider.

The congressional mandate asks the impact that LPFMs “will have” on full-service stations. CCB insists that, “It is impossible to predict the future,” and that there are “too many variables to predict” even if it were. Hyperbole aside, future projections will be fraught with a number of significant challenges, and should be approached with an appreciation for their inherent uncertainty. REC Networks (“REC”) points out that, “The currently available data on LPFM is pretty much all the Commission will have to work with,” so that, “The Commission making predictive judgments[8] may not represent the overall impact on full service stations. Several factors would invalidate such predictive data”[9] I therefore agree with Prometheus that this and other limitations noted in the Public Notice “greatly constrain the usefulness of the planned study, particularly if the Commission restricts its analysis to already-existing data.” I further note CCB's assertion that, “Even if it were possible to prepare an accurate report based on current operating stations, no one knows the number, format, location, coverage, or distribution of broadcasting stations that 'will' be operating five or ten years in

5 Comment of National Assocation of Broadcasters.
6 Comment of Christian Community Broadcasters.
7 Comment of Prometheus Radio Project.
8 “We seek comment on whether the LCRA requires the Commission to include in its report predictive judgments about potential impacts that will occur after the statute is fully implemented and additional LPFM stations are licensed pursuant to the LCRA. We also seek comment on how we should account for any limitations involved in making predictive judgments based on currently available data.” – *Public Notice.*
9 Comment of REC Networks.

the future." Again, I do not feel such projections are literally impossible (or nearly so), but urge the Commission to proceed with caution and awareness of the limitations of such projections.

Finally, I agree with Prometheus that, "the Commission must account for the influence of other factors affecting the success of that station during the same time period as the nearby LPFM station's operation," such as, "a worsening economic climate, both locally and nationwide." (Echoed by CCB's observation that, "Economic conditions in the United States – and worldwide – have been increasingly unreliable in the past few years.")

COMPLICATING FACTORS

Several Commenters note a number of factors sure to complicate any study, including:

Complexity of existing media: I share CCB's frustration that, "Congress is interested only in the 'impact of LPFM on commercial FM,' yet AM radio, translators, and full-service NCE broadcasters are all important variables that are not being considered. The relationship between FM translators and LPFMs is extremely important in the 'big picture.' Also, it is surprising that Congress is not interested in the relationship between an NCE LPFM and a full power NCE (that might have only 200 watts)."

Future spectrum changes: CCB asks, "Will LPFMs be sharing channel 5 and 6 frequencies in a few years? Maybe. This is another unknown and an unpredictable variable."

Substitution: I also agree with Don Schellhardt, Esq. and Nickolaus Leggett ("Schellhardt & Leggett") that, "[M]arket research...should fully explore the possibility that many LPFM listeners did not 'switch' to an LPFM from a commercial radio station but rather 'switched' to an LPFM from a different alternative completely."[10]

CCB may express it best: "the limitations in [making predictive judgments]...are unlimited!"

MEANS AND METRICS

NAB insists, "[T]he two metrics [the Commission] should consider in determining the economic impact of LPFM stations on full-service stations are changes in audience size and in advertising revenues." And: "no usable audience data exists for non-Metro stations. BIA/Kelsey also does not compile revenue data for most stations outside of Metros. For those stations, the Commission should use the population within a station's protected contour as a proxy for audience size and revenues." To the extent that this plan represents the relative coverage of all stations equally (according

10 Comment of Don Schellhardt, Esquire K14PMG and Nickolaus E. Leggett N3NL.

to the actual populations within their respective contours), I support it. I am however less enthusiastic about NAB's further suggestion that, “To evaluate the economic impact of LPFM stations, the Commission could ask LPFM licensees, or a representative sample of LPFM licensees, to submit information concerning their revenues and financial sources. To avoid any privacy concerns, this data could be collected by the Commission or a contractor on a confidential basis and reported only on an aggregate basis.” As a means of gathering aggregated data it seems sound, though such aggregate data may or may not offer any clues about how any given LPFM stations directly impact any given nearby full-service stations. To the extent that such data may be useful, however, NAB's suggestion is as goo as any, and CCB seems to echo this: “Mail a questionnaire to all LPFM stations. All will not respond, but the answers received will provide the most accurate data available.” At the least, it's critical that the volume of data collected will be sufficient to prove meaningful, a concern shared by Prometheus: “[T]he Commission should evaluate a sample large enough to be statistically valid, and include in its study a control group of commercial stations (which are not near LPFMs) that are in other ways similar (in terms of format, station size, market, economic climate, changes in management, etc.) to the stations near LPFMs.”

The Commission proposes three primary metrics, as follows:

Audience Ratings. I support Trapani's consideration that, “Full-powered stations rely on listener market share services to position themselves in competition with each other. Due to the limited signal coverage, interference issues, and limited potential listenership, LPFM stations do not appear in these market share services. This significantly reduces any ‘potential’ competition against a full-powered station, which would impact the full-powered station financially to its advantage.” I also agree with CCB's challenge to the relevance of this metric, noting that, “there is no established protocol that directly correlates ratings to revenue,” and CCB's further assertion that the complexity of large markets makes it “impossible to use ratings or any other audience-based metric to evaluate possible impacts of LPFMs on full-service.” CCB's consequent conclusion that, “ratings are not the best metric to use in any market” may be overstating the limitations of this metric, but I feel strongly that based on these arguments, the value of any ratings data should carry little weight in the proposed economic study.

Advertising Revenues. I agree with most Commenters that of the three primary metrics proposed by the Commission in its Public Notice, this is the one most likely to provide the best information. (CCB: “Nearly 100% of the revenues generated by commercial stations is from advertising. This is the only useful metric to consider.”) This is far from an exact or reliable metric, however, as Trapani notes that, “stations are prohibited from airing commercial advertisements, and therefore are unable to directly compete for revenue generation with full-powered stations, which enjoy more relaxed standards.” Trapani also maintains that to the extent that noncommercial underwriting may displace commercial advertising in the same market, “small local community businesses do not have the resources to afford the large advertising fees charged by full-powered radio stations.” I believe the study will find that that is usually the case. Prometheus echoes this: “In our experience, LPFM underwriters typically are small local businesses that would otherwise not have had an opportunity to reach the FM radio market.”

It's worth asking, too, how much advertising LPFM could possibly “siphon”[11] off full-service. LPFM stations are inherently very small. What advertisers would consider the diversion of ads to a far smaller station with much shorter reach an advantageous move, even at a much lower cost? I share CCB's opinion that, “If commercial station revenues were adversely impacted because of underwriting announcements, this would have been observed where full-service commercial and NCE stations have been competing for support for many years,” and, “Obviously an LPFM would have less impact than a full power NCE.” To whatever extent LPFM might be able to draw advertising from full-service commercial radio, it stands to reason that full-service NCE would have a greater impact, commensurate to its greater power, coverage, and listenership.

What specific data will be gathered? If CCB's entreaty to focus exclusively on actual revenues of LPFM stations is ignored, how will the economic impact of LPFM on full-service commercial stations be accurately measured? NAB suggests BIA/Kelsey data, but CCB argues that, “There is no need to track the revenue of commercial stations using BIA/Kelsey or other data sources unless there are accurate ways to show how much of any losses can be attributed to LPFMs.” Indeed, I expect it will be difficult for BIA/Kelsey or anyone else to distinguish which notable changes in advertising revenue for any given full-service commercial station are attributable to any given LPFM station, which would seem to be the only useful finding towards identifying the impact Congress asks about.

This metric recognizes that noncommercial underwriting and commercial advertising are fairly

11 “[W]e seek comment on whether sponsorship and underwriting of LPFM stations siphon advertising dollars away from full-service stations and on whether LPFM stations impact the advertising revenues of full-service stations in any other respect.” – *Public Notice.*

substitutable, at least for the kind of sizable clients that matter most to full-service commercial stations, with the understanding that all noncommercial stations of any size may not run ads. In view of that, I must acknowledge NAB's charge that, "[S]ome LPFM stations have sold commercial advertising in disregard of the requirement that they operate only on a non-commercial basis." (Commenter George Chambers makes similar charges, without specification, yet I am confident of his sincerity and the veracity of his claims.[12]) But I'm unconvinced that this is an issue of great concern to this study.

The examples NAB cites amount to three LPFM stations that were "Admonished" by the Commission, one with an additional forfeiture of $10,000. I have to assume that NAB dug up the most egregious examples, but if these represent the worst of LPFM, then the service has not produced a large number of serious violators, willful or otherwise. The Commission itself seems to feel that most of these incidents are due to oversight or misunderstanding, rather than willful violations. I'm personally skeptical that LPFMs pose any economic threat to full-service radio (both commercial and NCE) through such violations, given their much lower power and reach (and therefore much lower appeal to advertisers generally), yet I don't wish to underplay the concerns of commercial broadcasters expressed by NAB, nor the serious responsibility of all broadcasters to faithfully adhere to all Commission Rules. I'm therefore skeptical that this subject merits discussion in the forthcoming study and report, but I do agree that it merits discussion and action *outside* of this Docket.

Geographic Measures. As CCB points out, "The FCC has correctly surmised that the LPFM industry cannot impact commercial stations in areas with no overlapping coverage or potential audience." This seems obvious. But CCB goes on to add that even where they do overlap—even 100% ("engulf"), "If a full-service station reaches five, ten, twenty times as many people [as the 'engulfed' LPFM] it is impossible to demonstrate economic harm by an LPFM to a commercial station." I won't agree that it's impossible, but it's hard to imagine how significant the impact could be at that ratio of coverage.

Several Commenters suggest other criteria and considerations to include in any study.

Schellhardt & Leggett warn that not all LPFMs are the same: "Since satellite-fed LPFMs have standardized, out-of-town programming, while other LPFMs have programming that is much more local and distinct, the two groups of LPFMs should be kept separate in any study. They are likely to

12 Telephone conversation with George Chambers following and regarding his Comment.

attract such radically different demographics that great confusion could result from lumping them together." I could hardly agree more. Those of us who worked hard to help develop LPFM more than a decade ago have always maintained that at its heart, the concept should be small-scale and locally oriented. We never wanted it it be used the way some operators do, as an alternative to distant translators or small NCE stations, to primarily rebroadcast remote or other non-local programming. From the beginning, we envisioned it wholly and exclusively as an acutely local service, intended primarily to give voice to those with no current access to broadcasting, and serve those listeners not currently or potentially served by incumbents. That the Commission's Rules nevertheless apparently enable and allow what we consider an abuse of the service is unfortunate and regrettable, but to the extent that forthcoming refinements in the Rules and their enforcement fail to mitigate that deviation from what we feel should be LPFM's primary use and purpose,[13] we would ask the Commission to recognise this dramatic difference between truly local and patently non-local LPFM stations in this or any other consideration of the service. I emphatically urge the Commission to make this discrimination in the forthcoming study, to provide clearer and fairer comparison of LPFM and full-service commercial stations according to how the former primarily serve their listeners through the sourcing of their programming.

For its own part, NAB makes a lot of hay over an alleged acute threat to full-service commercial "niche-formatted stations" by same-market LPFM entrants with similar narrow programming. In its Comment, NAB describes these stations as "economically fragile" and "economically vulnerable," and, in the appended study on this subject by Dr. Fratrik,[14] "very challenged competitively and financially." Notwithstanding the proprietary value of BIA/Kelsey's source data, the lack of details (such as specific stations, their particulars, and their markets) makes it difficult to evaluate the information he does provide, both on its own merits and in relevant contexts.

One detail Dr. Fratrik does provide is actual revenues of the "niche" stations he discusses. 2010 revenues for these stations ranged from $288,000 (for "foreign language" formatted stations) to $650,000 (for "Asian" stations). The mean of these figures is $362,000; the average (for the five figures supplied, in a discussion of six "niche" formats) is $420,200. While these numbers may seem paltry compared to $2,750,000 Dr. Fratrik cites for comparison, they're an order of magnitude above

13 In their Comment, Schellhardt & Leggett propose measures to mitigate this. While their proposal is not strictly relevant to the immediate concerns of this Docket, I fully support any effort towards the localisation of LPFM. Related, in the telephone conversation referenced above, George Chambers offered very compelling arguments that localism is a relevant economic issue, as well as an important public service issue that should be of concern to the Commission.

14 Mark R. Fratrik, Ph.D., Vice President, BIA/Kelsey, *The Financial Position of Radio Stations Providing Non-Mainstream Programming,* 23 June 2011, BIA/Kelsey (appendix to Comment of NAB).

the typical revenues of all but the most robust LPFM stations. To the extent that these niche-formatted stations are economically “fragile,” “vulnerable,” or “challenged,” LPFMs must be more so by an equivalent order of magnitude. One would reasonably wonder how it would even be possible to operate an LPFM at all, if a station with ten times or more the coverage and listenership is struggling at ten or more times the revenue. (While higher-powered stations are inarguably more costly to operate as larger and more complex radiators, the bulk of station operations are not commensurately more costly as ERP goes up.) It's reasonable to suppose that such niche-formatted stations, while substantially smaller than same-market mainstream-formatted stations, are of appropriate size and revenue for their target listenerships within those markets, and not, as NAB suggests, just barely hanging on.

One should also wonder why a new entrant to a market with an incumbent niche broadcaster would choose to directly compete with an established station that's larger and has more coverage, reaching more people. It would surely be economic suicide for an LPFM to make such a choice. It's therefore curious why NAB even considers this a serious concern, since it seems unlikely that any but the most foolish LPFM entrants would hope to gain by diluting already very limited listenerships that NAB suggests barely support full-service niche-formatted incumbents. Even if they did, it seems unlikely that they'd pose any serious challenge to much larger incumbents with established listenerships. At that, NAB's anxious hand-wringing over these unidentified niche-formatted stations seems at best misplaced, and at worst a desperate attempt to find some purchase in a debate that many of us agree that but for the mandate of Congress is needless.

CCB insists that, “Diverse formats must be considered in determining if one station has an economic impact on another.” By this, CCB means the same thing that NAB does, when Dr. Fratrik explains that, “stations offering niche or non-mainstream programming have smaller potential audiences and much more limited ability to generate advertising revenues.” If an LPFM chooses to broadcast such niche-formatted programming (as NAB seems to believe that many do or will), it stands to reason that its ability to siphon revenues from the majority of full-service commercial stations is that much more limited.

This raises a compelling question: If LPFM stations compete with full-service commercial stations on programming, then how much of an economic threat can they possibly pose, if narrow programming evades broad listenership (as NAB claims), and small stations are inherently less attractive to advertisers than bigger ones? Except for the seemingly remote threat of same-market niche-formatted programming, it's hard to imagine how LPFM threatens anyone, anywhere.

REC further considers that such listener substitution due to competing narrow or niche-formatted programming doesn't inherently imply a direct or substantial impact by any given LPFM on any given full-service commercial niche station: “An LPFM station’s impact on commercial broadcasters would be based on the compelling programming that the LPFM station is providing as well as the programming that is being provided by the commercial broadcasters. If an LPFM station has a compelling format that no other station is doing, it may take a very small market share away from those ears listening to a commercial station but we must also take into consideration that there’s also a possibility that the LPFM’s programming may be taking listeners away from an internet radio station on their smartphone or listening to MP3s on their iPod.”

This echoes the complexity limitation many Commenters have cited as a major impediment to the ability of the study to clearly determine what specific economic impact, if any, LPFM may have on full-service commercial radio, especially in large markets.

Finally, some Commenters indicate that they may be able to aid the Commission in their study. NAB seems ready to help, either from their own membership rolls or their relationship with BIA/Kelsey. CCB has offered to help, through consultation with their many associated LPFM stations.[15] The Commission could also solicit help from the many stations Prometheus has worked with, or the ones that REC has advised, or those associated with The Amherst Alliance. All these parties are long familiar with LPFM from its earliest days, in various ways, and are likely to have as much or more to contribute towards the study.

TECHNICAL INTERFERENCE

I fully agree with Prometheus' assertion that, “a study of potential interference is neither required nor intended by the Local Community Radio Act. ... In the unlikely event that a low power station does cause interference on either the third or second adjacent channel, the Commission has ample resources to address the problem.” I fully support the Commission's intent to not consider technical interference issues within the scope of the mandated economic study:

> We currently do not intend to study potential interference issues in connection with our report to Congress. Our preliminary interpretation of the statute is that Congress did not intend the Commission’s study or report to assess the potential economic impact on full-service stations due to interference from LPFM stations. Section 8 of the LCRA does not

15 Clarified in telephone conversation following and regarding CCB's Comment.

> expressly require such an assessment. Moreover, Congress adequately protected against interference problems by including in the LCRA extensive measures designed to resolve any interference from LPFM stations on third-adjacent channels.[16]

Even before these added protections, the Commission's prior mandated technical study of third-channel interference by LPFM stations found such interference, where it occurred, so minimal that the contractor specifically recommended against an unnecessary economic study:

> 1.3.3.16 Economic Analysis
> The Act called for an analysis of the economic impact on FPFM stations that could result from LPFM interference within their protected contours. Since the listener tests that would be used to support such an impact analysis have been included in a possible second phase, the economic analysis has likewise been deferred. As with the listener tests, MITRE does not feel that there is enough perceptible interference from LPFM stations operating on third-adjacent channels to warrant the expense of a Phase II economic analysis.
> [17]
>
> 5.2.2 Listening Tests and Economic Analysis
> The FCC should not undertake the additional expense of a formal listener test program or a Phase II economic analysis of the potential radio interference impact of LPFM on incumbent FPFM stations. Other economic impacts are outside the scope of this effort. Perceptible interference caused during the tests by temporary LPFM stations operating on third-adjacent channels occurred too seldom, especially outside the immediate vicinity of the sites where the stations were operating, to warrant the additional expense that those followon activities would entail.[18]

MITRE's clear point is that where technical interference does not occur, economic effects attributable to technical interference clearly cannot occur, and it's therefore needless to explore them. While the Commission is not free to disregard this study, as the LCRA mandates it, the study may serve to validate MITRE's recommendations of a decade ago.

There's reason to consider, though, how full-service stations impact LPFM, both technically and economically. Trapani wonders why the focus is on how LPFM affects full-service radio rather than the

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16 *Public Notice.*

17 The MITRE Corporation, *Experimental Measurements of the Third-Adjacent Channel Impacts of Low-Power FM Stations – Volume One: Final Report* (MITRE TECHNICAL REPORT No. MTR 03W0000021V1), May 2003 (“MITRE Report”).

18 *Ibid.*

other way around:

> Our station suffers significant regular co-channel interference from a full-powered station (at a distance greater than 140kM from the LPFM station) on a regular basis. The interference can be so severe, that our LPFM stations' primary city-grade contour is extensively compromised. This greatly impacts an LPFM stations ability to properly serve the public interest. The LCRA does not address this issue, and it is a common problem with existing LPFM stations. Despite the fact that the NAB and other full power station lobbyist groups continue to claim that LPFM stations interfere with full power stations, both the MITRE report, and realistic current-day issues show the opposite to be the case.

REC adds:

> If we use data from existing LPFM operations on the impact of full-service stations, we must also factor in the impact of full-service stations on LPFM, especially the expenses that are borne by these non-profit, non-commercial LPFM stations to make transmission system changes when full power FM stations and in some cases FM translators encroach on the service contour of the LPFM station. We think that you will find that the amount of losses by LPFM stations fighting off encroachment far exceeds any losses by full-service stations as a result of the existence of the LPFM station.

An economic study of the interaction of LPFM and full-service commercial stations has little reason to consider the technical impact of LPFM stations on full-service stations, but good reason to consider the reflexive effects of the opposite. LPFM stations technically impacted by full-service stations also suffer economic impact as a result, and that can't help but affect their real and potential economic impact in turn, including on the impacting full-service stations that affect them technically.

POSITIVE IMPACT

In consideration of some Comments, I believe that rather than threatening full-service commercial radio, LPFM may in fact *benefit* other radio. Schellhardt & Leggett suggest, "LPFM is having, or at least under certain circumstances could be having, a positive impact on the revenues of full power commercial stations." These and several other Commenters argue that LPFM may increase radio listenership generally:

Schellhardt & Leggett: "LPFMs can help full power commercial stations by increasing listenership for radio as a whole – much as the variety of choices in a shopping mall, or at a multiplex movie theatre, more than offsets the impact of one-on-one competition by growing a much larger market for the competitors to share."

Prometheus: "[T]he Commission must consider whether the audience of the LPFM in fact draws from commercial stations' listenership, or whether low power radio audiences in some cases represent new FM listeners. … A complete picture of the economic impact of low power radio would include an analysis of whether low power radio stations produce more relevant and interesting local programming, thus driving an increase in radio listeners and revenue for broadcasting generally, thus improving its health."

REC: "LPFM stations are fulfilling needs that are not being satisfied by commercial full service stations and in some cases, those who listen to LPFM stations are less likely to listen to a commercial full service station if the LPFM did not exist."

LPFM may thus provide a benefit to radio generally, by attracting new listeners, or drawing previously skeptical or jaded listeners back to the radio dial, to explore and rediscover. If a nearby full-service station provides something those new and returning listeners want to hear, then those stations benefit from the impetus supplied by the LPFM. Moreover, a variety of stations gives listeners more choice, more chance to vary their listening habits, and less "listener fatigue" from listening to the same one or few stations all the time, thus encouraging them to spend more time listening to all radio generally.

I can attest to this personally, from constantly changing radio stations while driving. If I hear nothing interesting in a full pass of the dial, I'm tempted to turn the radio off altogether. But if I do hear anything interesting, I'm much more inclined to give the rest of the dial more of a chance. I expect that many radio listeners share this habit, and I believe that variety on the dial is good for everyone, not just any given station. It's a rare station that's so consistently interesting, entertaining, or compelling that any given listener will stay on that one station all the time, to the exclusion of *all* others. Most people I know want to know what else is there to find and listen to.[19]

The potential benefits of LPFM for full-service radio go beyond merely drawing listeners to the dial, though. Schellhardt & Leggett propose that due to its greater flexibility and capacity for experimentation, LPFM can serve as a valuable test space for new radio innovations that can benefit all radio stations:

19 Indeed, a common reaction I've heard, and one I share, is that people will listen even to a station they don't especially like, for no other reason that that it's playing something that's at least *different* from what's on most other radio heard, and for that fact alone refreshing and even enjoyable, if only as a respite from overly homogeneous programming.

> LPFM can serve as a "proving ground" for innovative programming. Such programming can later be adopted by full power commercial radio stations if it is shown to be successful in LPFM service areas "at the grassroots". In addition, LPFM stations can be an incubator for successful technological innovations, which might then be replicated by full power commercial stations, and can provide valuable training for individuals who may then move on to full power commercial stations. More of this potential for innovation can be actualized if: (a) full power commercial radio broadcasters look more actively to LPFM stations as a source for trained personnel and innovative ideas; and (b) the FCC stops licensing those LPFM stations which air little or no locally originated programming.

NAB presumes that, “Congress required the Commission to prepare the report so that Congress could consider further changing the rules if the operation of LPFM stations would have an adverse impact on FM service.” Yet the LCRA contains no language indicating that intent, and the Public Notice contains no such indications either, suggesting that Congress and the Commission do not necessarily agree with NAB's presumption.

In fact, Congress may simply be curious, and may as well be interested in potential *positive* economic impacts of LPFM on full-service commercial radio. I think it's therefore worth exploring that possibility within the mandated study, as several Commenters have indicated.

CONCLUSIONS

The value of the study will be limited by numerous factors, including larger economic trends, the complexity of larger radio markets, the lack of confident or easily obtainable data relevant to the study's scope and concerns, extant and emergent alternative media available for substitution by listeners and advertisers, unknowns such as future changes in spectrum allocation or how many future LPFMs may exist and where they will be, and the great difficulty generally of projecting this vast complex of considerations into the future.

It's further unclear what means and metrics will be best to use, or useful at all. Changes in audience ratings and individual station revenues may not be clearly or directly attributable to LPFM, or anything else, save for a likely small proportion of anecdotal examples that will be difficult to gather. That LPFM stations are so much smaller than all but the very smallest full-service commercial stations strongly implies their commensurately limited ability to impact those larger stations by drawing away listeners, or indeed in any way at all. Even the consideration that come LPFMs may illegally run ads doesn't suggest that such tiny stations are capable of siphoning any meaningful amount of such revenues from full-service stations. NAB's suggestion that niche-formatted stations are unusually vulnerable to content competition from LPFM stations fails to consider that few new stations are likely to even try it, or that such tiny stations have very little capacity to challenge any full-service stations on any grounds, or that niche-formatted stations are inherently much more powerful than LPFM stations in several ways. The Commission must further recognise that non-overlapping stations do not affect each other, and that even those LPFM stations fully enveloped by much larger stations likely have little impact on them, especially if they are not programming similar content. Finally, the Commission must consider the important difference between truly local LPFM stations and those that mostly or entirely rebroadcast content from outside their communities of service, and treat these two groups differently.

The question of technical interference by LPFM under the Commission's rules was put to rest a decade ago, as evidenced by the findings of the MITRE Report, which itself went so far as to say that given those findings, a companion economic study based on that is needless. The LCRA imposes even more protections, ensuring that such concerns are unwarranted and do not merit further consideration. However, the very real, demonstrated, and documented technical impact and consequent economic impact of full-service stations on LPFM may well be relevant to this economic study, due to the reflexive nature of local economics, and so the Commission should consider this in its study.

As the LCRA leaves the Commission free to follow any and every approach to the question it poses, the Commission should consider the possibility that LPFM may benefit full-service commercial stations, by drawing new and returning listeners to all stations on the dial in their area, not only themselves (including ostensibly competing niche-formatted stations), and providing a ready testing ground for innovations that may benefit all radio generally.

Some Commenters feel certain that this study is needless. Trapani insists, “[C]ompetition and impacts on passing the statutes of the LCRA will be insignificant to full-powered stations....” Others question its larger implications, despite NAB's apparent belief that Congress means primarily to protect full-service commercial stations. Prometheus argues, “If low power stations in some cases do create more competitive radio markets, and hopefully even push commercial stations to produce more locally relevant content, the Commission’s goals of localism, diversity, and competition would be well-served.” REC adds, “If the operation of an LPFM station causes a substantial impact to the operation of a full service commercial or non-commercial broadcast station, perhaps that is a sign that the 'full service' station is not truly providing a 'full service'.” Given that public service is a fundamental precept of broadcast licensing, LPFM might well help identify those full-service stations that are not fulfilling that duty.

Make Localism the Goal: In consideration of same-market interactions between stations, I implore the Commission to place a strong emphasis on *local* service and origination whenever comparing stations or considering their interactions. To the extent that any LPFM may challenge any full-service station, the Commission should consider what degree of that impact may owe to the latter declining to provide service that is interesting and useful for its listeners. All radio being locally received for the served public, localism must be a top priority in all broadcast regulatory considerations. Local service, both alone and complementary to full-service radio, has indeed been the main focus of the push for LPFM from the very beginning,[20] and for many of us remains the goal today.

Respectfully submitted,

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20 "The ties of community identity would be fostered in urban neighborhoods, rural towns and other communities which are currently too small to win much attention from "mainstream," ratings-driven media. ... No mainstream media would be displaced by microstations, but such media would be supplemented. Further,...mainstream media might have an incentive to become more responsive to new ideas." – Nickolaus E. Leggett, Judith F. Leggett, and Donald J. Schellhardt, Esq., *Petition for a Microstation Radio Broadcasting Service* (RM-9208, 26 June 1997)